

15. ADA

BASIC REQUIREMENT

Titles II and III of the Americans with Disabilities Act of 1990 provide that no entity shall discriminate against an individual with a disability in connection with the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility and the provision of service, including complementary paratransit service.

AREAS TO BE EXAMINED

1. ***Fixed Route Provision of Service***
 - a. Stop Announcements on Vehicles
 - b. Route Identification
 - c. Service Animals
 - d. Lift and Securement Use
 - e. Use of Accessibility Features
 - f. Public Information/Communications
 - g. Lift Deployment at Any Designated Stop
 - h. Service to Persons Using Respirators or Portable Oxygen
 - i. Adequate Time for Vehicle Boarding/Disembarking
 - j. Training
 - k. Monitoring

2. ***Paratransit as a Complement to Fixed-Route Service***
 - a. Eligibility Process
 - b. Provision of Service
 - c. Meeting Demand
3. ***Fixed-route and Paratransit Vehicle Accessibility & Facility Accessibility***
4. ***Rail Station & Rail Car Requirements***
5. ***Maintenance of Accessibility Features & Lift Availability***
6. ***Complaints/Lawsuits***

REFERENCES

1. [49 CFR Part 27](#), "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance."
2. [49 CFR Part 37](#), "Transportation Services for Individuals with Disabilities."
3. [49 CFR Part 38](#), "Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles."
4. [DOT Disability Law Guidance](http://www.fta.dot.gov/civilrights/ada/civil_rights_3886.html) (http://www.fta.dot.gov/civilrights/ada/civil_rights_3886.html).

QUESTIONS FOR THE REVIEW

1. *Has the grantee had an ADA Compliance Review by the FTA Office of Civil Rights? If yes, what was the scope of the review? When was the site visit? Is the review closed? If the review is not closed, what is the status of open findings?*

EXPLANATION

Consistent with FTA's oversight responsibilities, FTA has a program of ADA Compliance Reviews. The reviews target a particular area of the ADA and the implementing regulations, such as ADA complementary paratransit, key, new, and renovated rail stations; fixed-route stop announcements and route identification; and fixed-route bus lift and maintenance reliability. The review process includes collection of data prior to the site visit, an opening conference, observation and data collection on site, and an exit conference. FTA staff provides the grantee a written report documenting the findings and necessary corrective actions. The grantee then is responsible for correcting deficiencies and providing appropriate documentation to the Regional Civil Rights Officer (CRO).

If the review is pending, the triennial review will not include those questions covered by the Compliance Review. If the ADA Compliance Review is closed or if findings are open and still being monitored, the reviewer should seek guidance from the CRO and the Office of Civil Rights on whether or not to include those questions in the triennial review. The triennial review will include the other ADA questions not addressed in the ADA Compliance Review.

Note: The Office of Civil Rights is interested in identifying candidates for ADA compliance reviews. If the review of this area indicates that the grantee has an unusual number of complaints, is not enforcing ADA requirements, has significant capacity constraints, fails to properly maintain accessible features, or for any other reason appears to be a candidate for a more in-depth examination, the CRO and the Office of Civil Rights ADA Team at Headquarters need to be informed. For example, in the area of ADA complementary paratransit capacity constraints, if sufficient data are not collected or reviewed for each parameter of performance, how does the agency assure compliance with these requirements? Lack of proper monitoring might give rise to a recommendation for additional oversight by FTA.

REASON FOR THE QUESTION

Input to triennial review

SOURCES OF INFORMATION

Prior to the site visit, the reviewer should contact the CRO to determine if an ADA Compliance Review of the grantee has been conducted during the review period.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None

2. *Has the grantee implemented the following service provisions required by the ADA?*

- *Stop announcements on fixed-route vehicles (bus and rail)?*
- *Means of route identification at multi-route stops?*
- *Service animals permitted in vehicles and facilities? Are there any policies or practices that may have the effect of limiting service animal use? Are animals other than dogs recognized as service animals in the grantee's procedures? Are persons with disabilities other than visual impairments allowed to use service animals? May a passenger board a fixed-route vehicle at any time, with no prior arrangements, with a service animal?*
- *Use of lifts and securement systems by persons who use mobility devices?*
- *Use of lifts by ambulatory persons?*
- *Use of accessibility-related equipment and features, such as*

automatic enunciators, stop request buttons, etc.?

- *Public information/communications made available in accessible formats? In what formats is information regarding transportation services available?*
 - *Lift deployment at all stops?*
 - *Service to persons using respirators or portable oxygens?*
 - *Adequate time provided to allow persons with disabilities to board/disembark from a vehicle (bus and rail)?*
3. *How are the above requirements communicated to employees and contractors?*
4. *How does the grantee monitor adherence to these requirements or otherwise enforce their implementation?*

EXPLANATION

The DOT ADA regulations (49 CFR 37.161-167) detail specific service requirements listed above. For bus stop announcements, if the grantee indicates that a union agreement prevents the grantee from calling stops, reviewers should note the ADA is a federal law that supersedes any union agreement.

The DOT ADA regulations define service animal as any animal individually trained to work or perform tasks for an individual with a disability, including but not limited to guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items. It is discriminatory to require a person with a disability to certify or register a service animal.

The key to ensuring compliance with these policies is ensuring that all employees and contractors are aware of them. This might be done through initial and refresher training. It might even be beneficial for these policies to be communicated to riders, giving them an even knowledge base with the employees serving them.

Having policies is not sufficient. The grantee should monitor compliance with the policies. Many grantees

find it necessary to monitor compliance with these service provisions, especially the stop announcement requirement (i.e., secret riders, progressive discipline, etc.). Documentation of this monitoring should be provided by the grantee.

REASON FOR THE QUESTION

49 CFR 37.161-167

SOURCES OF INFORMATION

Discussions and facility inspections at the site visit are sources of information. Review operating, training, and maintenance manuals, and internal bulletins for information or procedures pertinent to the regulations. Examine if procedures include monitoring of compliance with requirements related to ADA provisions. Examine public information materials for details on communications in alternative formats. The regulations do not require that grantees have written policies detailing how they comply with these service provisions, but the grantee should be able to provide reasonable documentation to demonstrate that operators are trained in these requirements and how the grantee enforces their implementation.

DETERMINATION

The grantee is not deficient if the required procedures are in effect and it can be demonstrated that the grantee enforces their implementation. If any requirements are lacking, or if there is no evidence that the grantee monitors and enforces these requirements, the grantee is deficient.

SUGGESTED CORRECTIVE ACTION

The grantee must implement all required service provisions, and submit documentation to FTA and/or provide evidence of monitoring the implementation of these provisions.

5. *Are personnel, contractors, and subcontractors trained to proficiency so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service with respect, courtesy, and sensitivity?*

EXPLANATION

The ADA requires that each fixed-route or demand responsive service operator ensure that personnel are trained to proficiency, as appropriate for their duties. This training is required so that personnel operate vehicles and equipment safely, properly assist passengers, and treat persons with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among persons with disabilities.

The DOT ADA regulations do not specify an acceptable course or frequency of training. The grantee must establish appropriate standards for its particular operation. There is no requirement for recurrent or refresher training, but there is an obligation to ensure that each employee is proficient at all times. The training must be appropriate to the duties of each employee, and must address both technical requirements and human relations. The reviewers should assess if the grantee is meeting its own standards, how it is monitoring performance to determine if personnel, contractors, and subcontractors are "proficient," and what, if any, consequences result if these standards are not met.

REASON FOR THE QUESTION

49 CFR 37.173

SOURCES OF INFORMATION

Training materials and handbooks should be reviewed along with bulletins and other material provided to personnel. Note that training is required not only for vehicle operators and those who maintain and repair vehicles and equipment, but for other personnel who interact with passengers as appropriate. Complaint records may indicate problem areas.

DETERMINATION

If the grantee has incorporated sensitivity training on interacting with persons with disabilities into its various equipment operation and safety training programs, the grantee is not deficient. If such training is lacking, the grantee is deficient.

SUGGESTED CORRECTIVE ACTION

Revise training program, begin retraining, and report to FTA on progress. Continue to report quarterly to FTA on retraining until all personnel have been trained as appropriate for their duties.

6. *If the grantee provides ADA complementary paratransit, are eligibility decisions made within 21 days of receipt of a complete application? If no, is presumptive eligibility granted?*
7. *Are eligibility decisions based solely on a note from a physician? What percent of applicants are approved?*
8. *Are persons who are denied eligibility or given conditional eligibility given a written statement of the reason and notice of their right to appeal?*

9. *Does the appeals process adhere to the DOT ADA regulations (opportunity to be heard, separation of function, decision within 30 days, and written notification of decision, with reason for it)?*

EXPLANATION

The DOT ADA regulations require that all public entities operating fixed-route transit (except for commuter bus/rail or intercity rail) must provide complementary paratransit to persons with disabilities who are unable to use the regular fixed-route system.

Note: Route deviation and point deviation systems are defined as demand responsive systems, and are not subject to the complementary paratransit requirement. One key factor to consider in determining if a transit system is fixed-route or demand responsive is if an individual must request the service in some way, typically by making a phone call in advance. With fixed-route service, no action is needed to access the service. If a person is at the bus stop at the time the bus is scheduled to appear, then the person can use the service. With demand responsive service, the individual typically must make a phone call in order to ride the bus. A system that permits user-initiated deviations from routes or schedules generally fits the definition of demand responsive service.

Each grantee is required to establish a process for determining ADA paratransit eligibility. Eligibility is to be strictly limited to certain categories of individuals:

- 1) Any person with a disability who is unable to board, ride, or disembark from an accessible vehicle without the assistance of another person (except for the operator of a lift or other boarding device).
- 2) Any person with a disability who could ride an accessible vehicle but the route is not accessible or the lift does not meet ADA standards.
- 3) Any person with a disability who has a specific impairment-related condition that prevents the person from traveling to or from a boarding/disembarking location.

There are many ways that the grantee can determine eligibility. The process may include functional evaluation or testing of applicants. Evaluation by a physician or health professional may be part of the process, but a diagnosis of a disability does not establish eligibility. What is needed is a determination of whether, as a practical matter, the individual can use fixed-route transit under given circumstances. The goal of the process is to ensure that only persons

who meet the regulatory criteria are regarded as ADA eligible. If decisions are based solely on a note from a physician, and 100 percent of applicants are approved, the grantee may not have an appropriate process. The grantee is not prohibited from providing service to other persons; however, the eligibility process must distinguish whether someone is ADA eligible or is provided service on some other basis. Information on the eligibility process is particularly important if the grantee is failing to meet the demand for service. This information from this question should also be an input for the capacity determination questions asked in Questions 11 through 20.

The grantee must process a completed application within 21 days of submittal. If after 21 days, the grantee has not made an eligibility determination, the applicant is presumed eligible and must be provided service unless the grantee later denies the application.

The grantee is required to establish an appeals process for persons denied eligibility or granted conditional eligibility. The applicant must be given written reason for the determination and notice of the right to an appeal. Applicants should be required only to state their intent to appeal, not be required to give a full justification in writing prior to an opportunity to be heard. The grantee may require that an appeal be filed within 60 days of the denial of a person's application. The process must include an opportunity to be heard and to present information. The person hearing the appeal must be separate from the person who made the original decision to deny eligibility. The grantee is not required to provide ADA complementary paratransit service pending the determination of the appeal, but if the decision takes longer than 30 days, paratransit must be provided from that time until a decision to deny the appeal is issued. A written notification of an appeal determination, with the reason for it, is also required.

REASON FOR THE QUESTION

[49 CFR 37.121-125](#)

SOURCES OF INFORMATION

Review information provided to the public that describes the ADA complementary paratransit and the eligibility process. Discuss with the grantee how applications are processed and how eligibility determinations are made. Spot check recent application files to ensure that the grantee processed them within the 21-day required time frame. Discuss the appeals process and spot check files for recent appeals to ensure that the process meets the regulatory requirements. Collect and review sample eligibility (including denial and conditionally eligible) and appeal decision letters.

DETERMINATION

The grantee is not deficient if it has in place an eligibility determination process and an appeals process that conforms to the regulatory requirements. The grantee is deficient if the application process does not conform to the required time frames. The grantee is deficient if it fails to notify applicants of their right to appeal or if the appeals process does not include all required elements.

SUGGESTED CORRECTIVE ACTION

The grantee must modify its eligibility determination process and/or appeals process to meet the regulatory requirements and submit copies of the revised procedures to FTA.

10. *Does the grantee's ADA complementary paratransit service meet the following regulatory requirements?*

- *Service provided to an ADA eligible individual? A Personal Care Attendant (PCA)? One companion? Visitors' policy adhered to properly?*
- *Type of service? Service is required to be origin to destination (may be door-to-door or curb-to-curb but must be origin-to-destination when needed).*
- *Service area within 3/4-mile corridors of fixed routes and the core area? Is service provided beyond the 3/4-mile corridors and core area?*
- *Next day service provided? If yes, what percent of reservations are made for the next day? Are requests for reservations accepted during normal business hours on all days prior to days of service (e.g. weekends, holidays, even if the administrative office is closed)?*
- *Trips scheduled within one hour of the requested trip time?*
- *Fares no more than twice the fixed-route fare? If a free-fare zone exists*

for the fixed-route, are comparable paratransit trips for that service area also free?

- *No fare charged for PCAs?*
- *No priorities based on trip purposes?*
- *ADA complementary paratransit service available during the same hours and days as fixed-route service?*
- *Subscription service does not exceed 50 percent unless there is non-subscription capacity?*

EXPLANATION

The DOT ADA regulations include detailed requirements for provision of ADA complementary paratransit. These requirements include:

Provision of service: ADA complementary paratransit must be provided to an ADA eligible individual, including those with temporary eligibility, the personal care attendant (PCA), if a PCA is necessary, and one other individual accompanying the ADA-eligible individual, if requested. Additional companions may be provided service if space is available. Service also must be provided to visitors. Any visitor who presents ADA eligibility documentation from another jurisdiction must be provided service. If a visitor does not have ADA eligibility documentation, the grantee may request proof of residency, and if the disability is not apparent, proof of disability. The grantee must accept a certification by the visitor that he or she is unable to use fixed-route transit. The grantee is not required to provide more than 21 days of service within a 365-day period. It may request that the visitor apply for eligibility in order to receive additional service beyond this number of days.

Type of service: The regulations specify “origin to destination” service. In certain instances, this might require service beyond strict curb-to-curb. See [DOT Disability Law Coordinating Council](#) guidance. The grantee may provide a higher level of service, but if the grantee is experiencing capacity constraints, the reviewer should identify if the level of service provided exceeds the minimum requirements.

Service area: The ADA service area at a minimum includes all origins and destinations within corridors with a width of 3/4-mile of each fixed route. Within the core service area, any small areas not inside a corridor but surrounded by corridors also must be served. Outside the core service area, the grantee may designate corridors with widths of up to 1 and 1/2

miles on each side of the fixed route, based on local circumstances. The grantee may provide additional service, but if the grantee is experiencing capacity constraints, the reviewer should identify if the paratransit service area exceeds the minimum requirements.

Response time: Requests for reservations must be accepted during normal business hours on a “next day” basis (not 24 hours in advance); on all days prior to days of service (e.g., weekends, holidays); and trips must be scheduled within one hour of the requested pickup time. The reviewer should discuss the number of next-day reservations that are actually made. If the number is a very low percentage of all trips, it may indicate capacity constraints. Advance reservations may be permitted up to 14 days before a desired trip.

Fares: The ADA complementary paratransit fare cannot exceed twice the fare for a trip of similar length, at a similar time of day, on the fixed-route system. No fare may be charged for PCAs. Any companions must pay the same fare as the ADA-eligible individual. Grantees who provide free-fare zones and/or operate free shuttle routes in downtown areas or in other parts of their service area must extend the free-fares to all complementary paratransit trips that both originate and terminate within the free-fare zone or within 3/4 mile corridor of a shuttle route. Discounted fares or free fares offered on a promotional basis on fixed-route services (e.g., ozone alert days) do not require a corresponding reduction of the ADA complementary paratransit fare.

Days and Hours of Service: Must be the same as the fixed-route days and hours of service. This is especially worthy of spot-checking in regards to weekend fixed-route service, very early or late service, and special or new services offered during these peripheral times.

Trip Purpose: No restrictions or priorities may be based on trip purpose.

Subscription Service: May not absorb more than 50 percent of the number of trips available at a given time unless there is non-subscription capacity. If there are no capacity constraints within a given system, subscription service is free to absorb as much as the transit system chooses.

REASON FOR THE QUESTION

[49 CFR 37.123-133](#)

SOURCES OF INFORMATION

Review information provided to the public, including the grantee’s web site, for a description of the ADA complementary paratransit service. Most grantees have a brochure, riders’ guide, or other information that describes the service and the procedures for

reserving a trip. Review internal operating policies that describe how trips are reserved and scheduled. Ensure that the service characteristics are consistent with the regulatory requirements.

DETERMINATION

If the ADA complementary paratransit service meets all ADA regulatory requirements, the grantee is not deficient. If the grantee's service does not meet the minimum requirements, the grantee is deficient.

SUGGESTED CORRECTIVE ACTION

The grantee must take immediate steps to modify any operating policies and change services that do not meet the regulatory requirements. The grantee should submit documentation of the changes to FTA.

11. *How does the grantee monitor ADA complementary paratransit service to ensure that there is no pattern or practice of trip denials? Lack of access to phone reservations? Untimely pick-ups? Missed trips? Excessively long trips? What is the denial rate (overall and for next-day trips)? What is the on-time performance rate? How are these data confirmed for accuracy?*
12. *If service is provided by contractual arrangement rather than directly operated, what mechanisms are in place to ensure adequate oversight on the part of the grantee?*
13. *Are rides that are not provided in a one-hour window tracked as denials?*
14. *When one leg of a round trip cannot be reserved, is it tracked as two denials when the rider declines the trip?*
15. *What is the entity's telephone hold time standard? How is telephone access measured (averages, percentiles, etc)?*
16. *For next day service, at what time of day are reservations cut off?*

17. *At peak times, can a caller reach the reservation office? Do callers ever receive busy signals?*
18. *How does a rider contact the reservation agent to cancel a trip?*
19. *Are cancellations used to penalize riders as part of the no-show policy? If so, is it limited only to cancellations that are the operational equivalent of a no-show?*
20. *Is a no-show suspension policy used? If so, does it only suspend riders who have demonstrated a true pattern or practice?*

EXPLANATION

This series of questions is designed to determine if the grantee's ADA complementary paratransit has adequate capacity to meet demand, and if the grantee is monitoring the situation to ensure that the service meets the regulatory requirements. The DOT ADA regulations specify that a grantee may not limit the availability of complementary paratransit to eligible individuals by restrictions on the number of trips or by waiting lists. Any operational pattern or practice that has the effect of limiting availability is prohibited, for example limited phone reservation capacity or substantial numbers of late pick-ups, trip denials, missed trips, or excessively long trips. "Pattern or practice" in the regulations refers to regular or repeated actions, such as repeated denials on peak days, not isolated or singular incidents. The regulations note that operational problems beyond the control of the grantee, such as unanticipated weather or traffic problems that affect all vehicular traffic, do not count as a pattern or practice under this provision. Repeated incidents caused by poor maintenance or excessively tight scheduling, however, would trigger this provision. One trip during the review period that is one hour late is probably not a capacity constraint, but 20 percent of the grantee's trips arriving one hour late probably would be.

In order to determine whether capacity constraints exist, the grantee should have a definition of what constitutes a missed trip, what "on time performance" means, when a trip has been "denied," and when travel time is "too long." For example, at what point in time does a trip go from being late to being "missed"? The reviewer should discuss with the grantee what its standards of service are and whether the complementary paratransit service is meeting them. Grantees are required to plan and budget for 100 percent of demand for next-day service. FTA has determined that to intentionally plan to deny a set

percentage of trips is not in compliance with ADA requirements. The grantee should have a mechanism in place for monitoring its on-time performance and tracking these indicators of capacity constraints to comply with ADA requirements.

The regulations allow the grantee to negotiate pickup times with ADA eligible persons within a one-hour +/- window. If the grantee cannot schedule a ride that is no more than one hour before or after the desired departing time, the trip must be tracked as a denial. Even if a rider accepts an offer of a trip that is outside the one-hour window, the trip must be tracked as a denial due to the grantee's inability to meet the ADA service criteria. Many grantees have been deficient in this regard. Similarly, if only one leg of a round trip can be reserved, and the rider declines the trip, it should be tracked as two denials. If the rider refuses an alternate time that is within the one-hour window, it is not a denial for the purposes of ADA compliance.

If on a regular basis, the phone lines are busy, average or long phone hold times are excessive, call abandonment rates are high, or callers after a certain time (e.g., mid-morning) are told that they cannot reserve trips for the next day, the grantee is limiting the availability of service. The grantee also must ensure that an ADA eligible individual can reach a reservation agent to cancel a trip. The grantee should be able to provide data on the performance of its phone reservation system.

Many transit systems have a suspension policy for a pattern or practice of no-shows, as allowed by [49 CFR 37.125\(h\)](#). However, such a policy needs to be narrowly tailored to a true pattern or practice. For example, three no-shows in 120 days would not be a pattern or practice for a daily rider. Ideally, such a policy would take into account frequency of rides and no-shows, and not use a simple number threshold. Furthermore, systems may include cancellations in their suspension policy, but only late cancellations that are the operational equivalent of a no-show. A provider should be able to absorb the capacity of an evening trip cancelled first thing in the morning.

REASON FOR THE QUESTION

[49 CFR 37.131\(f\)](#); [49 CFR 37.125\(h\)](#)

SOURCES OF INFORMATION

Discuss with the grantee how complementary paratransit service is monitored and what is the system's denial rate. Review performance indicator data that the grantee collects. If possible, the reviewer should phone the reservation line at various times of day prior to or during the site visit to determine if a caller can reach a reservation agent. Some grantees may have communication systems that provide data on average call wait time, number of missed calls, call abandonment rates, and other indicators of performance. If no such data are

collected or reviewed, how does the agency assure compliance with these requirements?

DETERMINATION

If the grantee's ADA complementary paratransit system has adequate capacity to meet demand for all next-day trips, it is not deficient. The grantee is deficient if it relies on waiting lists, trip caps, or demonstrates phone access limitations or substantial, repeated numbers of untimely pickups, trip denials, missed trips, or excessively long trips. The grantee is deficient if it has no provisions to accommodate peaks in demand. While there is no regulatory requirement for record keeping or monitoring in any particular way, unless the grantee has zero trip denials and few complaints about other performance indicators, the grantee must be able to demonstrate that the denials it does have, as well as the missed trips, late pickups, etc. are not an operational pattern or practice that significantly limits the availability of ADA paratransit service. The grantee may be deficient under these circumstances if it is not monitoring complementary paratransit service.

The grantee must track trip denials properly. If the grantee is not tracking as a denial trips provided outside the one-hour window, and is not tracking as two denials round trips that cannot be scheduled, it is deficient.

SUGGESTED CORRECTIVE ACTION

If the ADA complementary paratransit service does not have adequate capacity to meet the peak demand for service by ADA eligible riders, the grantee must increase capacity or take other measures to reduce demand (e.g., consider eliminating service that exceeds ADA requirements or modify the fixed-route service area or other characteristics). The grantee must track trip denials correctly.

21. *Has the grantee purchased or leased any new fixed-route vehicles (bus or rail) since the last triennial review? If yes, do the vehicles comply with the applicable standards under [49 CFR Part 38](#)? If no, has the grantee obtained a waiver from the FTA Administrator?*
22. *Has the grantee purchased or leased any used vehicles (bus or rail) since the last triennial review? If yes, do the vehicles comply with the applicable standards under [49 CFR Part 38](#)? If no, does the grantee have*

documentation of good faith efforts to obtain accessible vehicles?

- 23.** *If the grantee provides demand responsive service for the general public, has the grantee purchased or leased any new demand responsive vehicles that are not accessible since the last triennial review? If yes, is there equivalent service? Has the grantee filed a certification of equivalent service?*
- 24.** *Has the grantee remanufactured any existing vehicles (bus or rail) since the last triennial review? If yes, do the vehicles comply with the applicable remanufacturing requirements under Part 37, Subpart D?*

EXPLANATION

The DOT ADA regulations include specific vehicle acquisition requirements for entities operating fixed-route bus, rail, and demand responsive systems.

In general, all new vehicles purchased or leased after August 25, 1990, by public entities operating fixed-route service must be accessible (must comply with [Part 38](#) standards). A public fixed-route operator may purchase or lease new non-accessible vehicles only after obtaining a waiver from the FTA Administrator. Used vehicles that are not accessible may be purchased or leased only after a good faith effort has been demonstrated to obtain accessible vehicles. Good faith efforts include specific steps described in the DOT ADA regulations ([49 CFR 37.73 \(c\)](#), [37.81 \(c\)](#), and [37.87 \(c\)](#)). The grantee must keep records documenting the good faith effort for three years. Remanufactured vehicles must be made accessible to the maximum extent feasible. It is considered feasible to remanufacture a vehicle so that it is accessible unless an engineering analysis demonstrates that including accessibility features would have a significant adverse effect on the structural integrity of the vehicle. Specific standards for the various types of transit vehicle are established by [49 CFR Part 38](#).

Public entities operating demand responsive service for the general public must purchase or lease accessible vehicles unless it can be demonstrated that the system, when viewed in its entirety, provides a level of service to persons with disabilities that is equivalent to the level of service it provides to persons without disabilities. The regulations provide guidance for evaluating equivalent service ([§37.77\(a\) & \(b\)](#)). Before procuring any non-accessible vehicle for demand responsive service, the entity must file an

equivalent service certification with FTA or with the state if the grantee receives its Urbanized Area Formula Grant Program funds from a state administering agency.

Appendix C to [Part 37](#) of the DOT ADA regulations includes a copy of the Certification of Equivalent Service.

REASON FOR THE QUESTION

[49 CFR 37.71-37.91](#)

SOURCES OF INFORMATION

Grant applications and quarterly progress reports are sources of information, as are discussions, vehicle inspections, and documentation obtained at the site visit. Procurement documents for vehicles should reference ADA requirements.

DETERMINATION

The grantee is not deficient if all new or used vehicles purchased or leased for fixed-route service are accessible in terms of [49 CFR Part 38](#). (Note that older, fixed-route buses may be lift-equipped, but not accessible by ADA standards.) The grantee also is not deficient if used, non-accessible vehicles have been purchased or leased, *and* adequate documentation of good faith efforts is provided. A demand responsive system open to the general public that has purchased or leased non-accessible vehicles is not deficient if it provides equivalent service to persons with disabilities (including wheelchair users) and has filed a certification of equivalent service. The grantee is deficient if new non-accessible vehicles have been purchased or leased and no exception applies. If a grantee that operates fixed-route service has purchased or leased used, non-accessible vehicles and cannot document good faith efforts to obtain accessible vehicles, the grantee is deficient. If the grantee operates a demand responsive service for the general public and purchased or leased non-accessible vehicles, but has not filed a certification of equivalent service, then it is deficient. Report any deficiencies to the regional office and headquarters.

SUGGESTED CORRECTIVE ACTION

The regional office and headquarters will determine corrective actions. A grantee that has purchased or leased non-accessible vehicles improperly must retrofit the vehicles or procure replacements that comply with [Part 38](#), unless documentation qualifying the grantee for an exception can be provided.

- 25.** *Has any new transit facility been constructed since the last triennial review? If yes, is the facility accessible? If no, did the grantee*

obtain from FTA a finding of equivalent facilitation?

26. *Have any transit facilities been modified since the last triennial review? If yes, were the modifications in accordance with Appendix A to 49 CFR Part 37, the ADA Accessibility Guidelines (ADAAG as adopted November 29, 2006)? If no, did the grantee obtain from FTA a finding of equivalent facilitation?*

EXPLANATION

Any new facility to be used in providing public transportation services that is constructed must be accessible according to the standards in 49 CFR Part 37, Appendix A. If the grantee alters an existing facility used to provide public transportation, the altered portions of the facility must be accessible. An exception may be made if the cost of making the facility accessible is disproportionate. The regulations provide guidance to define disproportionate costs, specify what costs may be counted, and provide a priority listing for accessible features. Departures from the standards in Appendix A are permitted if the alternative designs and technologies used provide equivalent or greater access and usability of the facility. Grantees must obtain approval from FTA for equivalent facilitation.

REASON FOR THE QUESTION

49 CFR Part 37, Subpart C and Appendix A

SOURCES OF INFORMATION

Grant applications, Milestone/Progress Reports, discussions, and facility inspections during the site visit are sources of information. If the grantee has undertaken alterations, but has not made the altered facility accessible due to the costs, examine documentation of the cost calculations. Procurement documents for architectural/engineering services should reference the ADA requirements.

DETERMINATION

The grantee is not deficient if any new construction or alterations to existing facilities are accessible to individuals with disabilities. The grantee is deficient if the new or modified facilities do not comply with the standards in 49 CFR Part 37, Appendix A.

SUGGESTED CORRECTIVE ACTION

The grantee must submit to FTA a schedule for making the necessary modifications to bring the facility into compliance. The grantee must report quarterly on progress until full compliance is attained.

27. *If the grantee is a rail operator, are any key stations currently covered by a Time Extension (TE) or a Voluntary Compliance Agreement (VCA)? If yes, has the grantee submitted Key Station Quarterly Status Reports, as required, and in a timely fashion? Has the VCA or TE expired? If yes, has the grantee completed the necessary work on the affected stations?*

28. *If the grantee is a rail operator, have any new stations been constructed since the last triennial review? If yes, does the boarding platform coordinate with the level of the floor of the railcars? Have all other ADAAG requirements been met?*

29. *If the grantee is a rail operator, have any stations (other than key stations) been altered in any way since the last triennial review? If yes, is level boarding provided? Have all other ADAAG requirements been met?*

30. *If level boarding is not provided at stations altered or constructed since the last triennial review, has the grantee documented the specific factors that render level boarding structurally and/or operationally infeasible for each station? What alternative means of boarding are provided for passengers with disabilities, including wheelchair users? Does this method of boarding comply with the applicable provisions of 49 CFR Parts 27, 37, and 38?*

EXPLANATION

All rail operators are required to ensure that key stations (e.g., transfer points, major interchanges with other transportation modes, and stations serving major activity centers) are accessible. Some rail operators that have not yet met the regulatory requirements are working under a VCA or TE with FTA's Office of Civil Rights. If a VCA or TE is in place, the grantee is required to submit Key Station Quarterly Status Reports to FTA.

All rail operators are also required to ensure that new stations comply with ADAAG requirements for new

construction and for new rail stations. This includes a requirement that the rail-to-platform height be coordinated with the floor of each railcar such that the platform gap meets certain tolerances for level boarding (see [DOT Disability Law Coordinating Council](#) Guidance). ADAAG provides for exceptions to this requirement if it is not structurally or operationally feasible to provide level boarding, and lists alternate methods of boarding that may be used. If stations are constructed without level boarding, and the structural and/or operational infeasibilities have not been documented, the grantee may be in violation of the DOT ADA regulations.

If a rail operator undertakes alterations to a station (other than key station requirements), those alterations must also be accessible per ADAAG.

REASON FOR THE QUESTION
[49 CFR 37.47-37.61](#)

SOURCES OF INFORMATION

At the desk review, you should determine if a VCA or TE is in effect. If so, check to see that the required reports have been submitted to FTA as required, and/or that timeframes have been met if the VCA or TE has expired. System and/or station plans and associated documentation should indicate any factors relating to exceptions from full level boarding requirements.

DETERMINATION

The grantee is not deficient if its rail service meets ADA requirements or if it has a VCA or TE and is reporting on progress to FTA as required, or if it has completed the necessary work within the specified timeframe. If the grantee has a VCA or TE and is not submitting reports to FTA on time, or has not completed the required work by the deadlines specified, it is deficient. If the grantee has constructed new stations that do not comply with ADAAG, or has not substantiated an exception from the level boarding/platform gap requirements, it is deficient. If a grantee has undertaken alterations to a station and has not complied with ADAAG, it is deficient.

SUGGESTED CORRECTIVE ACTION

The grantee must submit delinquent reports to FTA. The grantee must submit documentation supporting platform-related exceptions to FTA. The grantee must correct noncompliant station elements in new construction or alterations.

- 31.** *If the grantee is a rail operator, is the system in compliance with the “one-car-per-train” rule?*

EXPLANATION

Under the DOT ADA regulations, as of July 25, 1995, all rail operators are required to ensure that each train (consisting of two or more vehicles if the grantee provides light or rapid rail) includes at least one car that is readily accessible to and usable by persons with disabilities, including persons who use wheelchairs.

REASON FOR THE QUESTION
[49 CFR Parts 37.93](#)

SOURCES OF INFORMATION

At the site visit you should verify “one-car-per-train” accessibility.

DETERMINATION

The grantee is not deficient if its rail service meets ADA requirements. The grantee is deficient if it violates the one-car-per-train rule.

SUGGESTED CORRECTIVE ACTION

The regional office and headquarters will determine corrective actions.

- 32.** *Did the maintenance review indicate any deficiencies with ADA requirements for maintenance of accessibility features?*

EXPLANATION

See Questions 7 through 15 in Maintenance for maintenance of vehicles, facilities and equipment. This question cross-checks the maintenance area to ensure that any deficiency related to maintenance and availability of accessibility equipment is reported to FTA as an ADA deficiency. Note that proper lift maintenance is an ADA requirement, regardless of whether there is an FTA requirement to maintain equipment purchased with federal money. This question addresses all buses, not strictly FTA-funded ones. Additionally, during the facility maintenance review, particular attention should be made to elevators at transit facilities.

REASON FOR THE QUESTION
[49 CFR 37.161-163](#)

SOURCES OF INFORMATION

See Questions 7-15 in Maintenance.

DETERMINATION

The grantee is not deficient if there are no maintenance deficiencies related to accessibility features. If the grantee is assigned Deficiency Codes 05 in Maintenance, these findings should be applied in the ADA area.

SUGGESTED CORRECTIVE ACTION

See Questions 7-15 in Maintenance.

- 33.** *What system of regular and frequent maintenance checks of lifts, ramps, and other accessibility equipment has the grantee established? Is this system sufficient to determine if lifts are operative? When a lift, ramp, or other equipment is found to be inoperative, is the vehicle taken out of service by the beginning of the next service day? Are lifts, ramp, and other equipment repaired within the timeframes required by the DOT ADA regulations prior to returning the vehicle to service?*
- 34.** *What is the grantee's policy with regard to lift, ramp, and other accessibility equipment failures on in-service vehicles? Are operators required to report lift, ramp, and other equipment failures promptly? Is alternative service provided to persons stranded for more than 30 minutes due to lift, ramp, or other equipment failures?*

EXPLANATION

The grantee must have a system of regular and frequent maintenance checks for wheelchair lifts, ramps, and other required equipment on non-rail vehicles that is sufficient to ensure that the lifts are operative. There is no specific requirement for daily cycling of lifts or ramps, though many grantees have adopted this practice to meet this requirement. The adequacy of the grantee's system may be reflected in the frequency of in-service failures. Operators must report immediately any failure of a lift or ramp to operate in service. When wheelchair lift or ramp failure is experienced on an in-service vehicle, the grantee must meet several requirements. If lift or ramp failure occurs on a route where the headway is greater than 30 minutes, the grantee is required to provide alternative service promptly. The vehicle must be removed from service before the beginning of the next service day if the lift or ramp is not repaired. The lift or ramp should be repaired before the vehicle is returned to service. In the event that there is no spare vehicle available and the grantee would be required to reduce service to repair the lift or ramp, the grantee can keep the vehicle with the inoperable lift or ramp in service for no more than five days (if the grantee serves an area of 50,000 persons or fewer in population) or three days (if the

grantee serves an area of more than 50,000 persons in population).

REASON FOR THE QUESTION

[49 CFR 37.161-163](#)

SOURCES OF INFORMATION

While in the maintenance facility, note if the grantee is following procedures for maintenance checks of wheelchair lifts, ramps and other equipment for non-rail vehicles. The grantee may have reports on lift availability. Spot check maintenance records to determine how long lifts, ramps, or other equipment may have been out of service. Review operational bulletins or manuals for procedures related to vehicle replacement.

DETERMINATION

The grantee is not deficient if it has procedures in place to address lift, ramp and equipment failures that adhere to the DOT ADA regulations and it follows them. The grantee is deficient if operators do not report lift, ramp or equipment failures immediately or if it operates vehicles with inoperable lifts, ramps or other equipment when it should not. If the grantee does not have (and follow) proper procedures to transport people when a lift, ramp or other equipment fails on routes with headways greater than 30 minutes, it is deficient.

SUGGESTED CORRECTIVE ACTION

A grantee failing to follow its system of lift maintenance checks must revise and/or fully implement the system. Procedures to correct a lift failure on a vehicle in-service must be implemented promptly and submitted to FTA.

- 35.** *Does the grantee have a procedure for responding to and tracking complaints? Who handles the complaints (Civil Rights Office, Legal Office, Customer Service, ADA Office)? Do these procedures apply to all modes, including complementary paratransit?*
- 36.** *Are any lawsuits alleging discrimination on the basis of disability pending? Identify parties to suits and issues.*

EXPLANATION

These questions are for information only. Complaints or legal actions may indicate a problem with implementation of the ADA requirements. The FTA Office of Civil Rights should be advised of any pending lawsuits.

REASON FOR THE QUESTION

Information

SOURCES OF INFORMATION

Information regarding complaints and lawsuits may be obtained from headquarters or the CRO or from the grantee.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None

- 37.** *Based on the answers to the above question, is the grantee a candidate for an in-depth civil rights review of its ADA complementary paratransit service, fixed-route lift maintenance and reliability, or fixed-route stop announcements and route identification?*

EXPLANATION

The FTA Office of Civil Rights is seeking input from the triennial review process to help it determine candidates for compliance reviews.

REASON FOR THE QUESTION

Information

SOURCES OF INFORMATION

Answers to the above questions and reviewer's opinion of compliance will be the basis for answering this question.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None by grantee. If the answer is yes, the reviewer will forward a copy of the draft report to the FTA Office of Civil Rights along with information on why the grantee is a candidate for a compliance review.